

PROPOSALS

For PRINTING

THE

Fundamental Constitution

OF THE

English Government.

S H E W I N G

The Antiquity, Nature, and Excellence of the ENGLISH MONARCHY; how the *Liberties* of the Nation have been preserv'd thro' the several *Revolutions* in it: What the Bounds set to the *Prerogative* of the *Prince*, and *Privileges* of the *Subject*; and what Harmony the *Constitution* has kept between 'em.

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By *William Atwood* of *Grays-Inn*, Esq;

S OON after the Accession of His Present Majesty, with his late Royal Consort of blessed Memory, to the Imperial Crown of this Kingdom, was the First Part of the above-mentioned Treatise published: Of which, possibly, the less notice has been taken; because the *Writers* against *this Government* have thought it more prudent to enter the Lists with them who grant their Premises, than with one who disputes every Inch of Ground with 'em; nor fears to deny Principles long receiv'd, when he can trace 'em to their corrupted Fountains.

Most of the *First Part* having been some time since disposed of, and the *Second* and *Third* being ready for the Press, the *Undertaker* intends to have the two First Printed together by the End of the next *Easter-Term* at the farthest; and the Last by the Beginning of the next *Michaelmas-Term*; with an exact Index to the Whole.

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The First Part, among other things, shews ;

I. That this Kingdom was founded in *Contract* ; and explains that *Contract*, with its Natural and Legal Consequences.

II. Gives an Impartial Representation of the Publick Acts of the *People of England*, in Assertion of what they held to be their Right : and more particularly, of the *Barons Wars* in the Reigns of King *John*, and *H. 3.*

III. Instances are brought of the Claim, and Exercise of the like Powers, by other Descendants from the *Old Germans*.

IV. The Antiquity and Power of those *Tribunes* of the People, *Earls Palatine*, *Lords High-Constable*, *High-Steward*, and *Earls Marshal*, are touch'd upon.

V. Many Arguments are brought to evince, that this *Monarchy* is, in some sort, *Elective*.

VI. An Account is given of the Titles of *H. 6. E. 4. H. 7. H. 8. of H. 8's* various *Settlements* of the Crown, and the Effects of 'em, in relation to the Queens *Mary* and *Elizabeth*, and to King *J. 1.*

VII. The Antient Authority of *Conventions* of the *States* of the Realm, is vindicated.

The Second and Third Books prove at large, That *William the Bastard*, as his own Charters stile him, was in no Sense (now commonly received) a *Conqueror* of *England*, either at his first Entrance, or after ; nor ever pretended to it, or acted like a *Conqueror*.

Wherein what has been urg'd by Dr. *Brady*, and the Author of *Elementa Politica*, (since published under the Title of *Vindicia Regia*) with other late Writers, to prove their Title to *Slavery*, is fully considered and refuted.

Particularly, in the Second Book, it is shewn ;

I. That *William 1.* being qualified for an *Election*, was, in the Life-time of *Edward the Confessor*, chosen to succeed him ; and that *duly*, according to the Law of Succession to the *English Hereditary Monarchy* : The *Foundation* of which, is prov'd to have been laid by the *West-Saxon King Ina*, Anno 699, more truly than by *Egbert*, Anno 800.

II. The Law of *Succession*, and Nature of the *Inheritance* in the *Crown* of this *Realm*, is shewn, and explain'd, by a Law pass'd in a *General Council* of this Nation, prior to the Fixation of the *Monarchy*, though subsequent to the *Foundation* of it ; By King *Alfred's Will* ; the *Rituals* for the *Coronations* of *Kings* of the *Saxon*, and *Norman Race* ; and by undoubted Records, and the most antient Histories and Law-Books.

III. The Case of the Mortgage in Fee, to the late *Bankers*, of part of the *Inheritance* of the Crown, is impartially considered.

IV. It is shewn, That *W. 1.* did not by his Victory over *Harold*, or others, break the *Force* of *England*.

V. That he was, in a proper Sense, *chosen* by the *People* of *England*, as well after his Landing, as before : and truly made a *Contract* with 'em both before, and at his *Coronation* ; and renew'd that *Contract* more than once.

VI. From comparing his *Real Title* with the *Usurpation* of *Harold*, occasion is taken to set the Controversy about King *de jure* and *de facto*, in its true Light.

VII. That Property was, throughout the Reign of *W. 1.* preserv'd upon the *Saxon Bottom*, is demonstrated from *Doomsday-Book*, that great Record of his Reign,



Reign, yet to be seen in the *Exchequer*; from some of his Charters and Writs; and the best Writers of, and nearest, those Times.

VIII. The same is confirm'd from the large Omissions out of the Entries in *Doomsday-Book*: Which Omissions are shewn to have been greater, and upon other Grounds, than Dr. Brady, and others have supposed.

IX. Upon examining the Lists of Tenants in *Capite*, or holding of the Crown in *Chief*, enter'd in *Doomsday-Book*, within three Counties near *London*; it is reasonably concluded, that the Majority of *Tenants* in *Chief*, throughout the Kingdom, were *Saxons*, and others, settled here before the Time of *W. 1.*

X. It is shewn, by the List of the King's Tenants in the three Ridings of *Yorkshire*; that in Parts of the Kingdom remote from *London*, few of the Owners of Land are to be thought *Normans*, or other Followers of *W. 1.*

XI. It is shewn, That many of the English Saxons were Barons throughout his Reign; that some continued in great Offices both in Church and State; and were Witnesses to his Charters pass'd in *Parliament* or elsewhere; longer than they who argue for a *Conquest* will allow.

XII. That English Saxons continued *Earls* for some Years after his Entrance; nor did he take Life or Honour from any one of 'em, without legal Trial.

XIII. That *Counties Palatine* were held by the Saxon Right of Succession.

XIV. An Account is given of several Saxon Families, which continued considerable all his Reign, and long after.

XV. It is shewn by particular Instances, and by way of Supplement to Sir *William Temple's* ingenious Book on this Subject; That the general and tragical Expressions of some of the old Monks concerning his Reign, are to be taken with Limitations.

XVI. It is made evident, That the Saxon Law was the receiv'd Rule of his Government: nor was any Change of that Law made in his Time by Parliament, or otherwise, to the Prejudice of the English Nation.

XVII. That he made no Alteration as to the Form, or Power, of the *Great Council* of the *Kingdom*.

In the Third Book, it is shewn;

I. That neither *W. 1.* nor any of his Successors, made any general Laws, without the Consent and Authority of the *Great Council*, or *Parliament*; and that the Pretence to a Legislative Power, without such Consent and Authority, was always fatal to the Pretenders.

II. That neither he, nor any of his Successors for many Descents, ever pretended by their sole Authority, to *dispense* with *Common* or *Statute Law*; and that the *Dispensations* of more Modern Times, have been under considerable Restrictions.

III. That the *Constitution* has given bounds to the *Pardoning Power*; and that no *Pardon*, unless pass'd or ratified in *Parliament*, can defeat an *Impeachment*; or qualify one to be a *Witness*, whom the Law had disabled.

IV. That the *Supream Judicial Power*, under the *King*, both *ordinary* and *extraordinary*, has resided with the Peers of the Realm: that their *ordinary* Power, such as us'd to be exercis'd out of Parliament, is discontinued; but the *extraordinary* remains; with some Limitations, occasioned by their Modern Practice in some Cases, and Desuetude in others.

V. That the Law of the Kingdom, as well as the *Canons* of the *Church*, limits the *Jurisdiction* of the *Spiritual Lords* to Cases not *Capital*.

VI. That

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VI. That the Lives of the Subjects were never at the absolute Disposal of the Prince, in Times of Peace or War. And as the Equality of the Trials of *Commoners* has been preserv'd from before the Reign of *W. 1.* to this day; so was that of *Peers*, till the Trial of the Earl of *Warwick* by a cull'd Number of Peers, in the Time of *H. 7.*

VII. An Account is given of the Antiquity and Distinctions of the *Baronage*, or *Barnage*, of *England.*

VIII. It is made evident, against all Objections, that the *Commons* were always, from the Beginning of this *Monarchy*, essential, and very significant, Members of the *Great Council*, or *Parliament*: and, for the most part, till the latter End of the Reign of *H. 3.* *Proprietors of Land*, as such, came to the *Great Council*, in their own Persons.

IX. That *Cities* and *Boroughs* came by *Representation*, from the Times of their respective Erections: and that probable Grounds may be assign'd for their having *Representatives*; while the others came in their *Personal Right.*

X. That the *Kings of England* have several great and useful *Prerogatives*: and that Common and Statute-Law have made due Provision, for their Safety, Honour, and Supply.

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